

### *Age Discrimination*

It is the policy of the ARB that no person shall be discriminated against on the basis of age. Employees should be selected, evaluated, and promoted on the basis of job-related work behavior, experience, and qualifications. There are federal and state laws which prohibit discrimination against persons 40 years and older.

The State of California also has a policy that encourages employment of older employees by providing opportunities for workers aged 70 and over to compete in promotional and open examinations and to continue in employment beyond the age of 70. Accordingly, the ARB's Personnel Section has established procedures to implement this policy for existing employees. These procedures state that a written request and a formal certification of competency and performance signed by the Executive Officer are required by the Public Employees Retirement System (PERS) for an employee to remain employed beyond the age of 70.

Any employee who feels that he/she has been discriminated against on the basis of their age may go through the discrimination complaint process outlined below.

### **Procedures in the Discrimination Complaint Process**

It is the policy of the ARB to manage and resolve complaints at the most informal level possible. Everyone has a right to have a person of their choice accompany or represent them at any time during the Discrimination Complaint Process. If you are a bargaining unit member, a union representative may attend with you. The role of the representative is to provide support for the employee.

Employees may choose to file their complaints directly with other compliance agencies. That information is provided on page 5-9 and 5-10.

All employees involved in the discrimination process are expected to tell the truth. Fraudulent claims can result in punitive action.

#### *Phase I of the Discrimination Process*

Employees who believe that they have been discriminated against should first discuss the problem with their immediate supervisor, the EEO Officer, or an EEO

Counselor/Investigator (See the Directory of Administrative Services). This *informal* step should be taken as the initial act in resolving discrimination complaints. Every effort will be made to resolve any problem quickly and informally and this process will remain as confidential as possible.

Complaint files will be maintained confidentially by the EEO Officer. No information regarding a complaint will be placed in an employee's official personnel file without the knowledge of the employee.

*Phase II of the Discrimination Process:*

If a satisfactory solution is not reached during Phase I, the employee must decide whether or not to file a formal complaint. A formal complaint is filed with the EEO Officer. This complaint must be in writing and must clearly set forth the particulars of the alleged discrimination including date/s of discriminatory act/s, basis of the complaint (age, race, sex, marital status, etc.), cause of the complaint, who was involved, list of witnesses, and any other information pertinent to resolving the complaint. The formal complaint always includes a fact-finding investigation. Once the complaint enters the formal phase of the process, confidential information may be released on a "need to know" basis. If corrective action results from the complaint, the respondent (alleged wrong doer) is entitled to due process which will be handled by the supervisor through the Personnel Office.

The EEO Officer assigns an EEO Investigator to act as the fact finder during the formal discrimination investigation. The investigator works with the EEO Officer to determine who should be interviewed and what information is needed. The investigation is conducted *immediately* and must be resolved within 180 days. At the conclusion, a written report is prepared for the EEO Officer.

The EEO Officer reviews the written report and based on the findings, works with the supervisors for resolution. This may require corrective action through the personnel process, recommending changes in the workplace, or determining that no evidence supports the allegation of discrimination.

Making reprisals, threats of reprisal, or implied threats of reprisal following filing a discrimination complaint is prohibited.

Confidential information regarding complaints will be maintained by the EEO Officer. No information regarding a complaint will be placed in an employee's

official personnel file without the knowledge of the employee. Copies of the final report may be requested in accordance with the Information Practices Act guidelines (IPA Civil Code Section 1798.24).

## *Time Frames:*

Complaints must be filed within one year (**365 days**) of the alleged unlawful discrimination. An additional 90 days may be granted directly following the one year expiration date if the complainant just discovered the unlawful discrimination. A complaint which is not resolved by the ARB within **180 days** from the date of formal filing may be referred to the SPB as an appeal for remedial action. An extension of time can be requested by ARB with the concurrence of the complainant. Each complaint is resolved as expeditiously as possible. Timeframes regarding filing complaints with other compliance agencies are outlined on page 5-9.

## *Withdrawing the Complaint:*

If the complainant wishes to withdraw his/her complaint during the process, the EEO Investigator will document the reasons but may continue the investigation at the EEO Officer's discretion.

## *Appeal Process:*

If the complainant is not satisfied with the disposition of the complaint, he/she may appeal the decision by forwarding the complaint and the ARB's response to the Executive Officer of the State Personnel Board (SPB) within **30 days**. The SPB is required to render a decision regarding an appeal of a discrimination complaint filed by a state civil service employee within four months of the filing of the petition.

If the complainant is not satisfied with the recommendation of the SPB's Executive Officer, the complainant may appeal to the SPB's five-member Board. The SPB's Board can either hear the appeal directly, making a final and binding decision; take the matter under submission and seek further review; or assign the case to a Hearing Officer for further investigation. In any event, the SPB is the final administrative level of review.

If the complainant is not satisfied with the decision made by the SPB, they may file a complaint with the appropriate state (Department of Fair Employment and Housing ) or federal (Equal Employment Opportunity Commission) agency. The addresses of the compliance agencies are listed on pages 5-9 and 5-10.

*Direct SPB Filing:*

A complaint may be filed directly with the SPB when a person believes that he/she has been retaliated against for being previously involved in a discrimination complaint process. A complaint may also be filed directly with the SPB when the remedy requested is outside of the scope of the ARB's authority to grant; when the circumstances directly involve an Executive Officer or members of his/her executive staff or when the ARB has exceeded the 180 days time frame as outlined in the discrimination complaint process.

State Personnel Board  
Appeals Division  
801 Capitol Mall  
P.O. Box 944201  
Sacramento, CA 94344-2010  
(916) 653-0799

*Other Compliance Agency Filing Options:*

Through the enactment of federal and state laws, rules and regulations the U.S. Equal Employment Opportunity Commission (EEOC) and the California Department of Fair Employment and Housing (DFEH) were created to investigate complaints of discrimination and enforce EEO laws.

Complaints of discrimination may be filed simultaneously with the EEOC and/or the DFEH. Complaints must be filed with EEOC within **300 days** of the alleged date of the discriminatory action. Complaints must be filed with the DFEH within **365 days** of the date of the discriminatory action.

*For Sacramento employees:*

California Department of  
Fair Employment & Housing  
2000 O Street, Suite 120  
Sacramento, CA 95814  
(916) 445-9918

U.S. Equal Employment Opportunity  
Commission  
901 Market Street, Suite 500  
San Francisco, CA 94103  
(415) 744-6500

*For El Monte employees:*

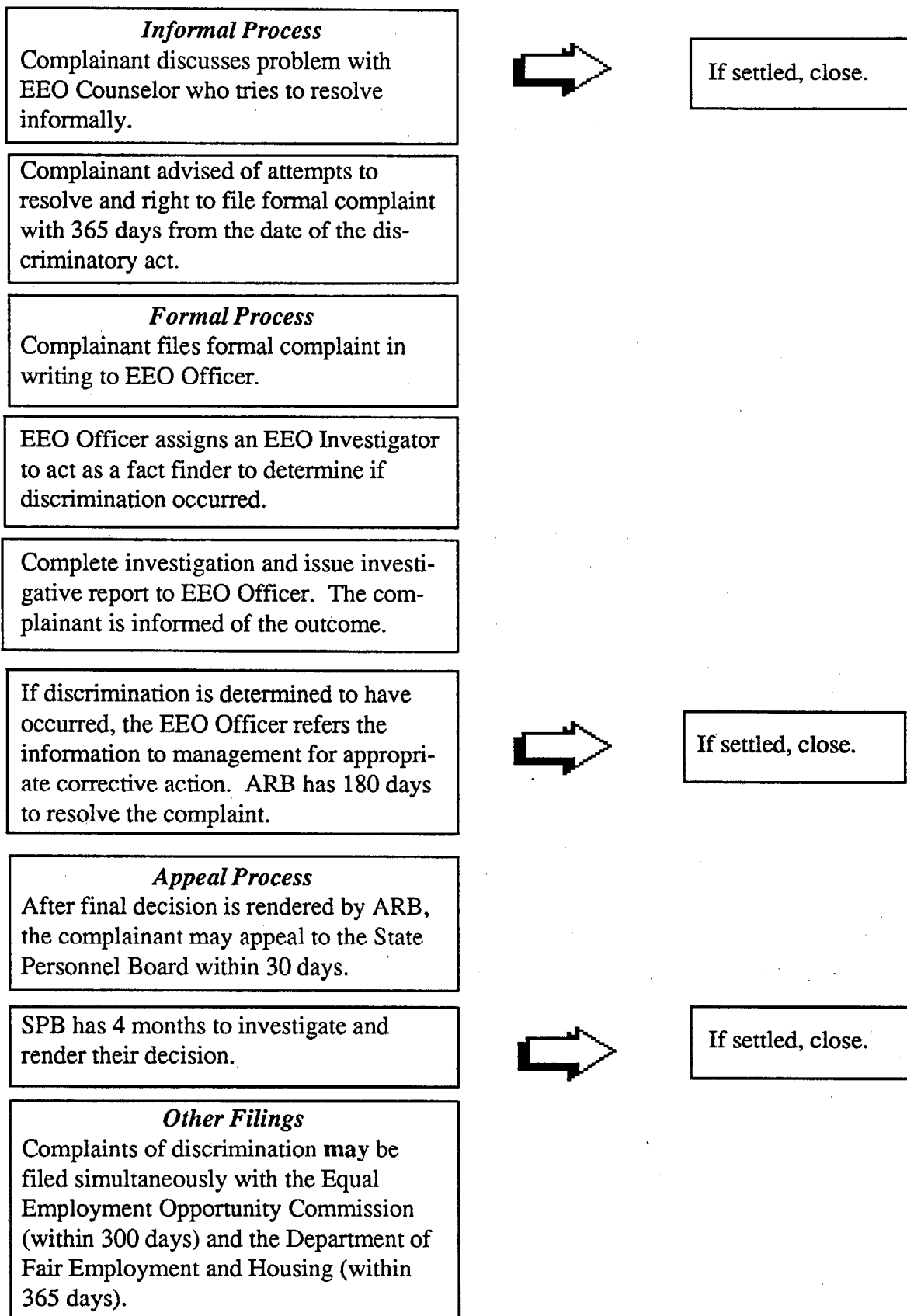
California Department of  
Fair Employment & Housing  
322 West 1st Street, Suite 2136  
Los Angeles, CA 90012  
(213) 897-1997

U.S. Equal Employment Opportunity  
Commission  
255 East Temple, 4th Floor  
Los Angeles, CA 90012  
(213) 894-1000

*Healing the Workplace:*

Allegations of discrimination are a serious matter. Discrimination is not only illegal, but causes stress and strain in the workplace even among employees who are not directly involved with the case. The Employee Assistance Program (EAP) is available for employees who desire counseling for stress, interpersonal conflicts, legal issues and questions. Counseling is provided by licensed and qualified counselors and consultants. All information is privileged and handled in the same way as confidential information given to a doctor. There are no co-payments, co-insurance, or deductible payments. Employees may call 1-800-632-7422 for appointments or contact the EAP Coordinator listed on the Directory of Administrative Services.

# ARB Discrimination Complaint Process



Discrimination